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COURT OF APPEALS
FIRST DISTRICT OF TEXAS
HOUSTON – HARRIS

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FARIHA ASHFAQ

Appellant

V.

MOHAMMAD ASHFAQ

Appellee

**On Appeal from the 246 District Court
Of Harris County, Texas**

AMENDED BRIEF OF APPELLANT

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REFERENCE CITATION GUIDE

The Parties

This brief may refer to the parties as follows:

Appellant Fariha Ashfaq	“Fariha,” “Petitioner” or “Appellant”
Appellee Mohammad Ashfaq	“Mohammad,” “Respondant” or “Appellee”

The Record on Appeal

This brief will refer to the record as follows:

Reporter’s Record	“__ RR __”
Petitioner’s Trial Exhibits	“PX __”
Respondent’s Trial Exhibits	“RX __”

NUMBER 01-14-00329-CV

**COURT OF APPEALS
FIRST DISTRICT OF TEXAS
HOUSTON – HARRIS**

FARIHA ASHFAQ

Appellant

v.

MOHAMMAD ASHFAQ

Appellee

**On Appeal from the 246 District Court
Of Harris County, Texas**

AMENDED BRIEF OF APPELLANT

TO THE HONORABLE COURT OF APPEALS:

Appellant, Fariha Asfaq, respectfully files this Brief of Appellant in support of her request that this Court reverse the trial court's order on motion to dismiss for want of jurisdiction and final order on post-divorce division of property ruling that the District Courts of Harris County did not have jurisdiction in Cause No.

201160365, In the Matter of the Marriage of Fariha Ahsfaq v. Mohammad Ashfaq, in the 246 District Court, of Harris County, Texas.

STATEMENT OF THE CASE:

This case arises from a petition for divorce filed by Appellant in Harris County, Texas. Appellant sued Appellee for divorce and just and right division of property and for attorney's fees. There are no children from the marriage. Appellee generally denied and argued that the divorce took place in Pakistan and the Harris County District Courts do not have jurisdiction to hear the case as the parties were already divorced.

COURSE OF PROCEEDINGS:

On September 11, 2013, and September 12, 2013, the trial court called the case for trial. The parties submitted all matters in controversy, legal and factual, to the trial court.

The trial court then heard the evidence and arguments of counsel and rendered judgment for Appellee, finding that the divorce in Pakistan was valid and terminated the marriage relationship as of November 20, 2009, and dismissed for want of jurisdiction the divorce action filed by Appellant on October 6, 2011 in Harris County District Court. The Court further ruled that each party was awarded the personal property in their possession and the debt incurred as the obligation of the party incurring said debt. The Court held that the corporation and real property

were acquired prior to the date of marriage and awarded to Appellee as his sole and separate property.

STATEMENT REGARDING ORAL ARGUMENT

Appellant does not seek oral argument.

TRIAL COURT

The Hon. Jim York, 246 District Court, Harris County, Texas.

TRIAL COURT'S DISPOSITION

On September 27, 2013, the trial court entered an order to dismiss and final order on division of property.

ISSUE PRESENTED

Pursuant to Rule 38.2(a) of the Texas Rules of Appellate Procedure, Appellants identify the following issue in this appeal:

1) Whether the Trial Court erred in ruling that the divorce in Pakistan was valid and ordering dismissal of the suit for dissolution of marriage for want of jurisdiction.

INTRODUCTION

Appellant and Petitioner Fariha Ashfaq filed a petition for divorce without children in Harris County District Court on October 11, 2011. Appellee and Respondent Mohammad Ashfaq filed for dismissal of case for lack of jurisdiction, claiming the parties were already divorced in Pakistan according to Muslim law on November 12, 2009. Trial was held on September 11 and 12, 2013, before the Honorable Judge Jim York. Judge York ruled that the divorce in Pakistan on November 12, 2009 was valid, and dismissed the divorce suit because Texas courts lacked jurisdiction. Petitioner now appeals the ruling.

STATEMENT OF FACTS

Pursuant to Rule 38.2(a)(I)(B) of the Texas Rules of Appellate Procedure, Appellant offers the following Statement of Facts:

The parties

1. Appellant is Petitioner Fariha Ashfaq; Respondent is Appellee Mohammad Ashfaq.

Marriage between the parties

2. The parties were married on or about December 18, 2007. Please see RX8.

3. From the very inception of the marriage, Respondent was both physically and emotionally abusive towards Petitioner. Please see 18 RR 15 to 24, Vol. 2.

4. Petitioner entered in to the United States on a fiancée visa on or about June 15, 2009, and intended to live with Respondent on a permanent basis in Fort Worth, Texas. Please see 15 RR 23 to 16 RR 4, Vol. 2.
5. Respondent applied for Petitioner's visa and admitted that they were living as husband and wife in Fort Worth, Texas. Please see 21 RR 17 to 21, Vol. 3.
6. Soon after Petitioner's arrival in the U.S., Respondent had decided he wished to divorce her. Please see 91 RR 16 to 19.
7. On or about November 4, 2009, Petitioner and Respondent went to Pakistan on a visit in order to attend the wedding ceremony of Respondent's nephew. Please see 21 RR 21, Vol. 2, and PX12.
8. It was there, in Pakistan, that Respondent again physically and emotionally abused Petitioner in front of her family. Please see 22 RR 5 to 18 and 23 RR 18 to 22, Vol. 2.
9. Respondent then abandoned Petitioner with her parents in Pakistan and came back to the United States on or about November 23, 2009. Please see 26 RR 20 to 22, Vol. 2.

Alleged divorce in Pakistan

10. Respondent testified that it was convenient for him to divorce Petitioner in Pakistan. Please see 96 RR 17, Vol. 2.

11. Respondent testified that when he was visiting Pakistan, he consulted a friend to put him in touch with a lawyer in Pakistan, who prepared the paperwork for him, which Respondent signed on November 12, 2009. Please see PX8, and 98 RR 21 to 100 RR 3, Vol. 2.

12. This paperwork was then mailed to Petitioner, without any notice of divorce proceedings. Please see 26 RR 16 to 22, Vol. 2.

13. Respondent's family in Pakistan had possession of Petitioner's passport for almost a month and refused to release it to Petitioner for that time. Please see 24 RR 8 to 11, Vol. 2.

14. Respondent argues that pronouncing "I divorce thee" three times and mailing the divorce papers is enough for the divorce to have taken place in Pakistan. Please see 98 RR 21 to 100 RR 11, Vol. 2.

15. Petitioner subsequently re-entered the United States in Houston, Texas. Please see 29 RR 25 to 30 RR 1, Vol. 2.

16. Petitioner filed her petition for divorce on October 6, 2011.

17. A trial on the merits before the Honorable Judge Jim York was held on September 11 and 12, 2013.

Trial Court ruling

18. The Trial Court ruled that the Pakistani divorce was valid and terminated the marriage on November 20, 2009, pursuant to Pakistani law, and Texas court lacked

jurisdiction because the marriage relationship was terminated in Pakistan prior to filing of the Texas divorce action. Please see 28 RR 18 to 25, Vol. 3.

19. Petitioner now appeals this ruling by the Trial Court.

SUMMARY OF ARGUMENT

The trial court erred in ruling that the Pakistani divorce between the parties was valid and that Texas courts lack jurisdiction.

20. Respondent argues that Petitioner and Respondent were divorced in Pakistan in November 12, 2009, and Respondent was allegedly subsequently married to another person Nighat Sultana in 2010. Please see PX8 and 89 RR 2, Vol. 2.

21. Respondent claims that he gave Petitioner what is considered a traditional Muslim “talaq” divorce. 98 RR 21 to 100 RR 11, Vol. 2. As will be explained *infra*, such divorces are not accepted by Courts in the United States.

22. Furthermore, Respondent produced a series of documents that purport to follow Pakistani law for a valid divorce in Pakistan. Please see PX 8, PX9, and RX6.

23. But as explained *infra*, when viewed together and taken as whole look to be fraudulent. Even if said documents are not fraudulent, they do not follow the due process requirements of Pakistani divorce law.

24. The Trial Court's rulings on the validity of the Pakistani divorce and lack of jurisdiction by Texas court on this matter must be overturned for the following reasons:

- a. The authorities in Pakistan do not have jurisdiction over Petitioner and Respondent to grant a divorce on or about November 12, 2009, because they were Texas residents at that time
- b. U.S. Courts do not recognize the traditional Islamic "talaq" as a valid divorce.
- c. Respondent did not follow Pakistan law and due process to accomplish a valid divorce in Pakistan.

ARGUMENT

a. Texas Courts have sole jurisdiction over Petitioner and Respondent to grant any divorce

25. The parties were married on or about December 18, 2007, in Pakistan. Please see RX8.

26. Respondent is a U.S. citizen, who applied for Petitioner's entry in to the United States as a spouse of a United States Citizen. Please see 83 RR 8 to 9, Vol. 2.

27. On or about June 15, 2009, Petitioner entered the United States via Dallas/Ft. Worth airport, and with the intent to establish her primary domicile in

Texas, residing at 9024 Friendswood Drive, Fort Worth, Texas 76123. Please see 15 RR 23 to 16 RR 11, Vol. 2.

28. To establish Texas as a domicile, a person must live in Texas with the intention of making it her fixed and permanent home. *Skubal v. Skubal*, 584 S.W.2d 45, 46 (Tex.App.-- San Antonio 1979, writ dismissed). See also *Franyutti*, No. 04-02-00786-CV (memo opinion) (W could claim Texas as her domicile even though her tourist visa required that she intend not to abandon her Mexican domicile).

29. In the present case, Petitioner relinquished her Pakistani domicile when she came to Texas on her fiancée visa. Therefore, it was on or about June 15, 2009, that Petitioner became a domiciliary of the State of Texas.

30. To grant a divorce, the court must have in rem jurisdiction. See *Williams v. North Carolina*, 317 U.S. 287, 297 (1942) (divorce suit is not “mere in personam action”). In rem jurisdiction gives a court power to determine the status of a “thing.” See *Dosamantes v. Dosamantes*, 500 S.W.2d 233, 236 (Tex. App.—Texarkana 1973, writ dismissed). The “thing,” for the purpose of a divorce suit, is a party’s marital status. See *id.* Each state as a sovereign has a legitimate interest in the marital status of the people domiciled within its borders. *Williams*, 317 U.S. at 298. A party’s domicile in a state creates a relationship with the state that is sufficient to invoke a court’s in rem jurisdiction over the party’s marital status. See *id.*

31. For a Texas court to acquire in rem jurisdiction over a suit for divorce, two requirements must be met: (1) one of the spouses must qualify as a Texas domiciliary, and (2) service of process on a nonresident spouse must be proper. See *Heth v. Heth*, 661 S.W.2d 303, 304-5 (Tex. App. – Fort Worth 1983, writ dismissed).
32. A suit for divorce can be maintained in the county where either the petitioner or the respondent has resided for the past 90 days if both parties have been domiciled in Texas for the past six months. See Tex. Fam. Code § 6.301.
33. Respondent had been a domiciliary of the State of Texas for more than six months. Respondent has testified that his residence in Texas is in Fort Worth, Texas. Please see 81 RR 10 to 82 RR 6, Vol. 2.
34. At the time of the filing of the suit in Harris County, Petitioner had been a resident of Harris County for more than 90 days. Please see 14 RR 24 to 25, Vol. 2.
35. While Petitioner had not resided for six months or longer in Fort Worth Texas in 2009, when she left to visit Pakistan, she had not intended to relinquish her domicile in Texas. Please see 21 RR 24 to 22 RR 3, Vol. 2.
36. Temporary absences from the county will not break the continuity of an established residence. *Cook v. Mayfield*, 886 S.W.2d 840, 842 (Tex. App. – Waco 1994, orig. proceeding).

37. Petitioner and Respondent *visited* Pakistan for Respondent's nephew's wedding. Respondent testified that they went to Pakistan for the wedding. Please see PX12.

38. Neither Petitioner nor Respondent established domicile in Pakistan. Respondent in fact testified that he did not go to Pakistan in November 2009 with the intent to establish domicile in Pakistan. Please see 92 RR 20 to 93 RR 8, Vol. 2.

39. Therefore, only Texas courts have jurisdiction over any suit for divorce between Petitioner and Respondent, not any authority in Pakistan, because both parties have always been residents of Texas during the time period in question.

40. The Trial Court erred when it ruled that Texas courts do not have jurisdiction over the parties in suit for divorce. Please see 28 RR 21 to 25, Vol. 3.

41. For this reason, the Trial Court's ruling must be overturned.

b. U.S. Courts do not recognize traditional Islamic "talaq" as a valid divorce.

42. Respondent produced a Divorce Deed and a Divorce Certificate to argue that Respondent divorced Petitioner in Pakistan on November 12, 2009. Please see PX8 and PX9.

43. Petitioner did not know about any of these proceedings in Pakistan at the time they were taking place, and only found out when she received the purported

divorce documents in the mail on November 23, 2009, the day she was to return back to the U.S. Please see 26 RR 20 to 27 RR 9, Vol. 2.

44. Respondent argues that the Trial Court should follow the principal of comity and give full faith and credit to the judgment of foreign courts and enforce the purported divorce in Pakistan.

45. As was explained *supra*, Pakistan authorities do not have jurisdiction over either Petitioner or Respondent, since they were both residents of Texas at the time the purported divorce in Pakistan occurred.

46. More importantly, nowhere on the two exhibits is there a signature or any other indication that Petitioner was present when these documents were endorsed, or that she ever agreed to any such divorce in Pakistan. Please see PX8 and PX9.

47. The purported divorce was granted against Petitioner *ex parte*. Please see 26 RR 16 to 18, Vol. 2.

48. The purported divorce appears to be of the type given under traditional Islamic law, also known as a triple talaq.

49. Pursuant to a triple talaq, a husband may summarily divorce his wife by pronouncing language such as “I divorce thee,” three times. See *Western, Islamic “Purse Strings”: The key to amelioration of women’s legal rights in the Middle East*, 61 AF L Rev 790, 121-123 (2008).

50. Courts of the United States do not give comity to such triple talaq divorces.

51. “ "Comity," in the legal sense, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other. But it is the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws.” *Hilton v. Guyot*, 159 U.S. 113, 16 S.Ct. 139, at 164.

52. “Every foreign judgment, of whatever nature, in order to be entitled to any effect, must have been ***rendered by a court*** having jurisdiction of the cause, and ***upon regular proceedings*** and ***due notice***. In alluding to different kinds of judgments, therefore, such jurisdiction, proceedings and notice will be assumed. It will ***also be assumed that they are untainted by fraud***, the effect of which will be considered later.” *Id* at 167 (emphasis added).

53. A judgment affecting the status of persons, such as a decree confirming or dissolving a marriage, is recognized as valid in every country, ***unless contrary to the policy of its own law***. *Cheely v. Clayton*, 110 US 701 (emphasis added).

54. “The decisions of this court have clearly recognized that judgments of a foreign state are *prima facie* evidence only, and that, but for these constitutional and legislative provisions, judgments of a State of the Union, when sued upon in another State, would have no greater effect.” *Hilton v. Guyot*, 159 U.S. 113, 16 S.Ct. 139, at 182.

55. The Supreme Court of the United States has held that “[W]here there has been opportunity for a full and fair trial abroad before a court of competent jurisdiction, conducting the trial upon regular proceedings, after due citation or voluntary appearance of the defendant, and under a system of jurisprudence likely to secure an impartial administration of justice between the citizens of its own country and those of other countries, and there is nothing to show either prejudice in the court or in the system of laws under which it was sitting, or fraud in procuring the judgment, or any other special reason why the comity of this nation should not allow it full effect, the merits of the case should not, in an action brought in this country upon the judgment, be tried afresh, as on a new trial or an appeal, upon the mere assertion of the party that the judgment was erroneous in law or in fact.” *Hilton v. Guyot*, 159 U.S. 113, 16 S.Ct. 139, at 202-203.

56. Petitioner in the present case was never given due citation, never had the opportunity to appear in any Court or authority in Pakistan to defend herself. There is nothing impartial about Respondent’s attempt to enforce the purported Pakistan divorce decree.

57. In fact, as is explained *infra*, Respondent has committed fraud in procuring the alleged divorce deed.

58. In 1985, the Fort Worth Court of Appeals found the harshness of such an *ex parte* talaq was so “counter to our notions of good morals and natural justice that

we hold that Islamic law in this situation need not be applied.” *Seth v. Seth* 694 S.W.2d 459, 463 (Tex. App. – Fort Worth, 1985).

59. United States courts in other jurisdictions have also refused to give comity to a “talaq” divorce. See *Aleem v. Aleem*, 947 A.2d 489, 404 Md. 404 (Md. App., 2008) (Court of Appeals of Maryland ruled that “*talaq* lacks any significant “due process” for the wife, and its use moreover, directly deprives the wife of the “due process” she is entitled to when she initiates divorce litigation in this State. The lack and deprivation of due process is itself contrary to this State’s public policy” after Husband, a national of Pakistan, went to Pakistan embassy in Washington D.C. and performed talaq and signed a divorce deed)

60. See also *Tarikonda v. Pinjari*, No. 287403 (Mich. App. 4/7/2009) (Mich. App., 2009) (Michigan Court of Appeals held that “Because plaintiff was denied due process in the Indian divorce arising from defendant’s pronouncement of the triple talaq, the trial court erred by recognizing the divorce and dismissing the complaint” after Husband, a national of India, traveled to India and performed talaq and signed divorce decree).

61. See also *Farid v. Farid*, FA094011049S (Conn. Sup. Ct. 9/10/2010) (memorandum opinion). (Connecticut Superior Court denied Husband’s Motion to Dismiss divorce petition filed by wife because of lack of subject matter jurisdiction

as the husband initiated divorce proceedings in Pakistan, and wife denied ever receiving any paperwork or proof of notice of said proceeding in Pakistan).

62. Even Respondent's expert witness was forced to admit in her testimony that triple-talaq divorce is unfair to the woman.

63. The expert witness testified that only a man has the right to pronounce a triple talaq divorce, the woman does not have that same right. Please see 54 RR 11 to 14, Vol. 2.

64. The expert witness even testified that Islam gives the right to the man alone, to give a triple talaq divorce for any reason, or no reason at all. 57 RR 1 to 3, and 73 RR 3, Vol., 2. However, the woman has to allege specific grounds for divorce in Court and a hearing is held where the man must answer for these allegations before a divorce is granted. Please see 73 RR 4 to 12, Vol. 2.

65. Furthermore, the expert witness testified that a woman who is granted a divorce in Court in Pakistan forgoes her property rights. Please see 74 RR 4 to 12, Vol. 2.

66. Finally, the expert witness testified that all the man has to do in order to effectuate a divorce is travel to Pakistan along with his wife, and pronounce "I divorce you" three times and the divorce has occurred. Please see 76 RR 2 to 6, Vol. 2.

67. Even the Trial Court pronounced at trial of the importance of foreign judgments being consistent with the public policy of Texas. Please see 73 RR 22 to 24.

68. Despite the evidence and testimony from Respondent's own expert witness that a triple-talaq divorce is fundamentally unfair to a woman, the Trial Court ruled that the divorce in Pakistan was valid. The Trial Court in effect adopted Islamic law to this case, even though it is so "counter to our notions of good morals and natural justice that ... need not be applied." *Seth v. Seth* 694 S.W.2d 459, 463 (Tex. App. – Fort Worth, 1985).

69. The Trial Court erred when it ruled that the divorce in Pakistan terminated the marriage on November 20, 2009. Please see 28 RR 24, Vol. 3.

70. For this reason, the Trial Court's ruling must be overturned.

c. Respondent did not follow Pakistan law and procedure to accomplish a valid divorce in Pakistan.

71. Even if this Honorable Court were persuaded under principal of comity to give full faith and credit to Respondent's purported proof of divorce, the Divorce Deed fails on its face because Respondent: 1) has not attached proof that he gave notice to the Chairman to the Union Council, and 2) never gave Petitioner notice of the divorce as required under Pakistan's Muslim Family Laws Ordinance 1961.

72. In Pakistan, the law relating to divorce is the Islamic law as modified by the Muslim Family Laws Ordinance 1961. Section 7 of the Ordinance provides:

“(1) Any man who wishes to divorce his wife shall, as soon as may be after the pronouncement of talaq in any form whatsoever, give the chairman notice in writing of his having done so, and shall supply a copy thereof to the wife.

(2) Whoever contravenes the provisions of subsection (1) shall be punishable with simple imprisonment for a term which may extend to one year or with fine which may extend to 5,000 rupees or with both.

(3) Save as provided in Section (5), a talaq unless revoked earlier, expressly or otherwise, shall not be effective until the expiration of 90 days from the day on which notice under subsection (1) is delivered to the chairman.

(4) Within 30 days of the receipt of notice under subsection (1), the chairman shall constitute an arbitration council for the purpose of bringing about a reconciliation between the parties, and the arbitration council shall take all steps necessary to bring about such reconciliation.

(5) If the wife be pregnant at the time talaq is pronounced talaq shall not be effective until the period mentioned in subsection (3) or pregnancy, whichever be later, ends.

(6) Nothing shall debar a wife whose marriage has been terminated by talaq effective under this section from remarrying the same husband, without an intervening marriage with a third person, unless such termination is for the third time so effective.

(a) “Arbitration Council” means a body consisting of the Chairman and a representative of each of the parties to a matter dealt with this Ordinance: Provided that where any party fails to nominate a representative within the prescribed time, the body formed without such representative shall be the Arbitration Council.

(b) “Chairman” means the Chairman of the Union Council or a person appointed by the Federal Government in the Cantonment areas or by the Provincial Government in other areas or by an Officer authorized in that behalf by any such Government to discharge the functions of chairman under Ordinance:

Provided that where the Chairman of the Union Council is a non-Muslim, or he himself wishes to make an application to the Arbitration Council, or is, owing to illness or any other reason, unable to discharge the functions of

Chairman, the Council shall elect one of its Muslim members as Chairman for the purposes of this Ordinance.

73. The purported divorce deed does not have any indication of the divorce taking place before any authority in Pakistan with the power to grant such divorces, such as a court of law or the Union Counsel. Please see PX8.

74. In effect, Respondent made a declaration for “talaq” on the side of some random street in Pakistan, and two strangers who heard him agreed to sign on as witnesses.

75. As explained *supra*, United States Courts do not accept such “talaq” as a valid divorce.

76. Furthermore, the date of this “talaq” is November 12, 2009. Please see PX8, page 3.

77. Respondent also produced what is purported to be a letter to the Union Council giving notice that he has pronounced divorce as required under Section 7(1) of Muslim Family Laws Ordinance 1961. Please see PX9.

78. However, this notice references the divorce deed and states that Respondent pronounced “talaq” on October 12, 2009. Please see PX9.

79. This is contrary to the date listed for the pronouncement of “talaq” on the divorce deed, which is November 12, 2009. Please see PX8, page 3.

80. In effect, Respondent gave notice to the Union Council a full month before he pronounced “talaq.” This is contrary to the provisions of Section 7(1) of Muslim

Family Laws Ordinance 1961, which requires notice to be given *after* pronouncement of “talaq.”

81. The reason Respondent has to do this is because RX6, which is a purported Divorce Certificate issued by the Union Council, was allegedly issued on November 12, 2009.

82. Section 7(4) of Muslim Family Laws Ordinance 1961 states that the earliest a divorce can be granted by the Union Council is thirty (30) days from the notice of “talaq” given by the husband to the Union Counsel.

83. The Divorce Deed states that the Respondent pronounced “talaq” on November 12, 2009. Please see PX8, page 3.

84. Respondent’s letter to the Union Council was on October 12, 2009. According to document produced by Respondent, Respondent was not even in Pakistan on October 12, 2009, when this letter was sent to the Union Council. Please PX12.

85. Respondent and Petitioner entered Pakistan on November 4, 2009. Please see PX12.

86. Respondent also testified that he after he arrived in Pakistan on November 4, 2009, he retained an attorney in Pakistan to draft the divorce deed, which he then signed and mailed to the Union Council. Please see 99 RR 23 to 100 RR 3, Vol. 2.

87. Yet, the Divorce Certificate from the Union Council was issued on the same day as the Divorce Deed, on November 12, 2009. Please see PX8.

88. Section 7(3) of Muslim Family Laws Ordinance 1961 states that a divorce is not effective until 90 days from the date of receipt of notice from husband.

89. Respondent allegedly sent the notice on October 12, 2009, and yet the Divorce Certificate from the Union Council certifies the divorce was final on November 12, 2009, less than the required 90 days. Please see PX9 and RX6.

90. Even Respondent's expert witness admitted that this is contrary to the procedure prescribed for a valid divorce under Muslim Family Laws Ordinance 1961.

91. The expert witness testified that she did not see any letter sent by the Respondent to either the Union Council as required under the Muslim Family Laws Ordinance 1961 Section (1). Please see 65 RR 10, Vol. 2.

92. The expert witness testified that she did not see any reconciliation letter from the Union Council to Petitioner as required under the Muslim Family Laws Ordinance 1961 Section 7(4). Please see 65 RR 18-19, Vol. 2.

93. The expert witness admitted that there was no reconciliation done, even though it is required under Muslim Family Laws Ordinance 1961 Section 7(4). Please see 68 RR 16, Vol. 2.

94. The only conclusion that can be drawn from these documents is that Respondent is attempting to perpetuate fraud upon the Court.

95. At the very least, Respondent has not met the requirements of Pakistan law to establish a valid divorce from Petitioner in Pakistan.

96. The Trial Court erred when it ruled that the divorce in Pakistan terminated the marriage on November 20, 2009. Please see 28 RR 24, Vol. 3.

97. For this reason, the Trial Court's ruling must be overturned.

CONCLUSION

The trial court's ruling in Appellee's favor is erroneous. Appellant respectfully requests that this Court reverse the trial court's judgment and (i) remand Appellant's petition for divorce against Appellee for a new trial, and (ii) and remand the case for further proceedings consistent with this Court's opinion.

RESPECTFULLY SUBMITTED,

M. ALI ZAKARIA & ASSOCIATES, P.C.

_____/s/ **Digant Jariwala**_____

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ATTORNEYS FOR APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to the following attorney of record for the Respondent on this the 11th day of September, 2014, via facsimile:

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CERTIFICATE OF COMPLIANCE

Relying on the word count function in the word processing software used to produce this document, I certify that the number of words in this brief (excluding any caption, identity of parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of jurisdiction, statement of procedural history, signature, proof of service, certification, certificate of compliance, and appendix) is 4,347.

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